

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 2918 [RESERVED]

PART 2919—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

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AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 69 FR 22991, Apr. 27, 2004, unless otherwise noted.

2919.000 Scope of part.

This part implements FAR part 19 and small business programs at the Department of Labor.

Subpart 2919.2—Policies

2919.201 General policy.

(a) It is the policy of the Department of Labor to provide maximum practicable opportunities to small businesses in acquisitions.

(b) Management responsibilities for small and disadvantaged business utili-

zation are the responsibility of the Director, Office of Small Business Programs. This individual is responsible for performing all functions and duties prescribed in FAR 19.2 including appointing, as prescribed in FAR 19.201(d)(8), a small business specialist (SBS) for each contract office. The Department of Labor Manual Series (DLMS), Chapter 2 1000, addresses the implementation of the preference programs in procurement including HUBZone, Subcontracting Plans, Standard Form 294 (Subcontracting Report for Individual Contracts), and the report, Standard Form 295 (Summary Subcontracting Report) submission, *et al.*

(c) All DOL procurements over the simplified acquisition threshold, whether being conducted via open market or by ordering from a pre-existing contract vehicle such as GSA Schedule, must be reviewed and receive a recommendation by the Office of Small Business Programs, the Department of Labor's Office of Small Disadvantaged Business Utilization, prior to being advertised. The Acquisition Screening and Review Form DL-1-2004 shall be used for this purpose and the statement of work and market survey documentation shall be submitted to Office of Small Business Programs with the request for review.

2919.202 Specific policies.

Contracting officers, administrative officers and program management shall ensure that procurements are structured and conducted to afford small businesses the maximum practicable opportunity to participate in DOL's prime and subcontracts. Administrative officers will review requisitions that will result in an award of \$2 million or more using available information to certify whether the acquisition would constitute a "bundled contract" under the definition provided in FAR 2.101 in accordance with procedures established by the Office of Small Business Programs. Each certification will be submitted to the Division of Acquisition Management Services, and included with the requisition

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to the contracting officer. Reports will be provided to the Office of Small Business Programs.

2919.202-1 Encouraging small business participation in acquisitions.

During the performance of a contract, the contracting officer will consider performance against subcontracting plan goals, objectives and planned efforts before exercising an optional period of performance. The contracting officer will document the evaluation of the contractor's actual performance using SF-294 data compared to their approved subcontracting plan goals.

2919.202-2 Locating small business sources.

Any procurement conducted on an unrestricted basis will include solicitations to small businesses of each category with legislatively established government-wide procurement goals (*e.g.*, small, small disadvantaged, women-owned small, HUBZone and service disabled veteran-owned small businesses) to the extent practicable.

Subpart 2919.5—Set-Asides for Small Business

2919.502 Setting aside acquisitions.

Contracting officers will conduct market surveys specifically to determine whether procurements should be conducted via 8(a) procedures, HUBZone procedures or as small business set-asides. If a reasonable expectation exists that at least two responsible small businesses may submit offers at fair market prices (three responsible small businesses in procurements via GSA Federal Supply Schedule), then the procurement will be set aside for small business. Market surveys will be documented in all procurement actions not reserved for small businesses.

2919.505 Rejecting Small Business Administration recommendations.

When the SBA Procurement Center Representative appeals a "rejection of an SBA recommendation" as referenced in FAR 19.505(b) and (c), the appeal must be referred to the Assistant Secretary for Administration and

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Management who is authorized to make a final decision.

Subpart 2919.7—The Small Business Subcontracting Program

2919.704 Subcontracting plan requirements.

Contracting Officers will refer subcontracting plans to the Office of Small Business Programs for review and recommendation before awarding contracts that require subcontracting plans. Contracting officers will document the substance of any agreement with the contractor that permits performance at less than the stated goals recommended by the Office of the Small Business Programs.

2919.705-1 General support for the program.

Contracting officers will make available a significant number of award points for quality of the subcontracting plan. High-rated subcontract plans will incorporate the highest yield of subcontracting to all categories of small businesses when compared to DOL or separately negotiated agency subcontracting goals on a dollar and percentage basis. Conversely, prime small businesses will be compared favorably to large businesses with subcontract goals, but may also be given the maximum score for qualifying under multiple small business categories. Contracting officers may also make available a significant number of award points for performance against previous subcontracting plan goals and efforts to achieve those goals.

2919.705-5 Awards involving subcontracting plans.

The Office of Small Business Programs will review subcontracting plans and SF 295 submissions for performance against business goals negotiated between the Department of Labor and the Small Business Administration.

2919.705-6 Post-award responsibilities of the contracting officer.

(a) Even when a subcontracting plan was submitted to and approved by the Office of Small Business Programs before award, the contracting officer upon award, amendment, or significant

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modification of a contract, must forward to the Director, Office of Small Business Programs, a copy of the subcontracting plan that was incorporated into a contract or contract modification.

(b) Each contracting activity must maintain a list of active prime contracts containing subcontracting plans.

2919.706 Responsibilities of the cognizant administrative contracting officer.

Contracting officers must collect annual and semiannual subcontracting reports from contractors with established subcontracting plans. Copies of the report, Standard Form 294 (Subcontracting Report for Individual Contracts), and the report, Standard Form 295 (Summary Subcontracting Report), must be forwarded to the Director, Office of Small Business Programs, not later than the 30th day of the month following the close of the reporting period. If the contractor has not met the goals for the reporting period, the contracting officer will provide an acknowledgement to the contractor and request corrective action to be taken. If goals are not met in subsequent periods, the contracting officer must consider factors that would demonstrate a good faith effort, and take appropriate action including assessing liquidated damages in accordance with FAR 52.219-16, and/or not exercising subsequent option periods.

Subpart 2919.8—Contracting with the Small Business Administration (The 8(a) Program)

2919.812 Contract administration.

(a) Contracting officers, or designees, must conduct periodic evaluations of the performance of an 8(a) contract at various stages of the contract period of performance. Any problems encountered during the performance evaluation, which cannot be resolved, must be referred to the Office of Small Business Programs for subsequent review and discussion with the appropriate SBA official.

(b) The Office of Small Business Programs and the SBA should be notified at least 45 days before initiating final action to terminate an 8(a) contract.

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PARTS 2920-2921 [RESERVED]

PART 2922—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 2922.1—Basic Labor Policies

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2922.101-3 Reporting labor disputes.

2922.101-4 Removal of items from contractor's facilities affected by work stoppages.

2922.103-4 Approvals.

Subpart 2922.8—Equal Employment Opportunity

2922.802 General.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 69 FR 22991, Apr. 27, 2004, unless otherwise noted.

Subpart 2922.1—Basic Labor Policies

2922.101-3 Reporting labor disputes.

Potential or actual labor disputes that may interfere with contract performance must be reported by the contracting activity to the Office of the Solicitor for legal advice or assistance. It may also become necessary to seek advice or assistance from the National Office of the Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20006, or other mediation agencies.

2922.101-4 Removal of items from contractor facilities affected by work stoppages.

Before initiating any action under FAR 22.101-4 for removal of items from contractors' facilities, the contracting officer must obtain legal advice from the Office of the Solicitor.

2922.103-4 Approvals.

The "agency approving official" as identified in FAR 22.103-4(a) and (b) is a manager, supervisor, or executive responsible for the contracting officer's technical representative (see 2901.603-71).